



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF OCTOBER 10, 2002**

CALL TO ORDER: Chairperson Manuel called the meeting to order at 7:00 p.m.

PRESENT: Chairperson Manuel, Commissioners Arneson, Cohen, Harrison, Thomas, Weaver, Wieckowski

ABSENT: None

STAFF PRESENT: Dan Marks, City Planner
Christine Daniel, Senior Deputy City Attorney
Rob Wilson, City Engineer
René Dalton, Associate Transportation Engineer
Clifford Nguyen, Assistant Planner
Alice Malotte, Recording Clerk
Chavez Company, Remote Stenocaptioning
Mark Eads, Video Technician

APPROVAL OF MINUTES: The regular meeting minutes of April 25, and September 26, 2002, with the following changes:

September 26th – page 9, vote (5-4-0-0-2) – Manual recused – Should read:

The motion carried by the following vote:

AYES:	4 – Arneson, Harrison, Weaver, Wieckowski
NOES:	0
ABSTAIN:	0
ABSENT:	2 – Cohen, Thomas

Commissioner Cohen noted that his absence was due to a death in his immediate family.

THE CONSENT LIST CONSISTED OF ITEM NUMBERS 1, 2, 3, 5, 6, 8, AND 9.

IT WAS MOVED (THOMAS/HARRISON) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTIONS ON ITEM NUMBERS 1, 2, 3, 5, 6, 8, AND 9.

Item 1. WANEE RESIDENCE – 1007 Sage Court – (PLN2002-00201) – to consider an Amendment to a Planned Unit Development to allow a new 3,652 square foot residence (4,295 square feet including garage) for property located in the Mission San Jose Planning Area. This project is categorically exempt from CEQA review per Section 15303(a), New Construction or Conversion of Small Structures. (Continued from July 25 and September 12.)

HOLD PUBLIC HEARING;

AND

FIND THE PROPOSED PROJECT TO BE CATEGORICALLY EXEMPT FROM ENVIRONMENTAL REVIEW PER SECTION 15303 OF THE CEQA GUIDELINES;

AND

FIND PLN2002-00201 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

APPROVE PLN2002-00201, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B".

- Item 2. TENTATIVE PARCEL MAP 7911 (BOCCALEONI PARCELS) – 1300 Peralta Boulevard – (PLN2002-00127) – to consider Tentative Parcel Map 7911, a Variance to Fremont Municipal Code Section 8-2605(l) (lot depth), and a Modification to Subdivision Ordinance Section 8-1515(6) (lot depth) for 3 single-family residential lots on 0.71 acres in the Centerville Planning Area. A Mitigated Negative Declaration was prepared and circulated for this project. (Continued from September 26, 2002.)**

HOLD PUBLIC HEARING;

AND

FIND THE INITIAL STUDY HAS EVALUATED THE POTENTIAL FOR THIS PROJECT TO CAUSE AN ADVERSE EFFECT—EITHER INDIVIDUALLY OR CUMULATIVELY—ON WILDLIFE RESOURCES. THERE IS NO EVIDENCE THE PROPOSED PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES;

AND

ADOPT DRAFT MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PLAN AND FIND IT REFLECTS THE INDEPENDENT JUDGEMENT OF THE CITY OF FREMONT;

AND

FIND THAT THE VARIANCE TO FREMONT MUNICIPAL CODE SECTION 8-2605(L) AND MODIFICATION TO SUBDIVISION ORDINANCE SECTION 8-1515(6) REGARDING LOT DEPTH ARE WARRANTED, BASED ON THE SITE CONFIGURATION AND DEPTH OF THE EXISTING PARCEL, THE FACT THAT ANY SUBDIVISION DESIGN WITH LOT ACCESS FROM SKELTON AVENUE COMPELS THE USE OF REDUCED LOT DEPTHS, AND THE VARIANCE FINDINGS AS ENUMERATED IN THE STAFF REPORT;

AND

FIND PLN2002-00127 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN AS ENUMERATED WITHIN THE STAFF REPORT;

AND

APPROVE PLN2002-00127, AS SHOWN ON EXHIBIT "A", SUBJECT TO EXHIBIT "B" (FINDINGS AND CONDITIONS FOR TENTATIVE TRACT MAP 7911) AND EXHIBIT "C" (FINDINGS AND CONDITIONS FOR VARIANCE FROM FMC SECTION 8-2605(L)).

- Item 3. STUDIO 84 – 34771 Ardenwood Boulevard – (PLN2003-00020) – to consider a planned district minor amendment to P-89-2 to allow a karaoke and online gaming (cyber café) facility at 34771 Ardenwood Boulevard in the Northern Plain Planning Area. This project is categorically exempt under CEQA Section 15301(a) as interior alterations to an existing building. (Continued from September 26, 2002.)**

HOLD PUBLIC HEARING;

AND

FIND THAT THIS PROJECT HAS BEEN DETERMINED TO BE EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO THE GUIDELINES OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT SECTION 15301, CLASS 1, EXISTING FACILITIES;

AND
FIND PLN2003-00020 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE CHAPTER AS ENUMERATED WITHIN THE STAFF REPORT;

AND
APPROVE PLN2003-00020, AS SHOWN ON EXHIBIT "A", SUBJECT FINDINGS AND CONDITIONS OF APPROVAL IN EXHIBIT "B".

- Item 5. **BELLECCERE GPA - 38569 and 38573 Mission Boulevard - (PLN2002-00111)** - to consider a General Plan Amendment to change the land use designation from Residential 5-7 dwellings per acre to 15-18 dwellings per acre for 1.04 acres located in the Central Planning Area. A Mitigated Negative Declaration was prepared and circulated. (Continued from September 12, 2002.)

HOLD PUBLIC HEARING;

AND
RECOMMEND THE CITY COUNCIL FIND THE INITIAL STUDY HAS EVALUATED THE POTENTIAL FOR THIS PROJECT TO CAUSE AN ADVERSE EFFECT—EITHER INDIVIDUALLY OR CUMULATIVELY—ON WILDLIFE RESOURCES. THERE IS NO EVIDENCE THE PROPOSED PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES;

AND
RECOMMEND THE CITY COUNCIL APPROVE DRAFT MITIGATED NEGATIVE DECLARATION AND FIND IT REFLECTS THE INDEPENDENT JUDGEMENT OF THE CITY OF FREMONT;

AND
FIND PLN2002-00111 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S HOUSING AND LAND USE CHAPTERS AS DISCUSSED WITHIN THE STAFF REPORT;

AND
RECOMMEND THAT THE CITY COUNCIL APPROVE PLN2002-00111 TO AMEND THE GENERAL PLAN LAND USE DESIGNATION FROM LOW-DENSITY RESIDENTIAL (5-7 UNITS PER ACRE) TO MEDIUM-DENSITY RESIDENTIAL (15-18 DWELLING UNITS PER ACRE) IN CONFORMANCE WITH EXHIBIT "A" (GENERAL PLAN AMENDMENT EXHIBIT).

- Item 6. **LU RESIDENCE GARAGE – 4661 St. Francis Terrace – (PLN2003-00053)** - to consider a Minor Amendment to a Planned District for the construction of a 1,259 square foot detached garage on property located in the Mission San Jose Planning Area. This project is categorically exempt from CEQA under Section 15303 as it relates to the construction or conversion of structures for up to three single-family residences.

CONTINUE TO OCTOBER 24, 2002.

- Item 8. **SAN JOSE QIGONG ACUPRESSURE – 39271 Mission Boulevard – (PLN2003-00061)** – to consider a Planned District Minor Amendment to allow the practice of massage (acupressure) in an existing tenant space located in the Central Planning Area. This project is categorically exempt from CEQA review per Section 15303, New Construction or Conversion of Small Structures.

HOLD PUBLIC HEARING;

AND

FIND PLN2003-00061 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS OF THE CITY'S GENERAL PLAN;

AND

APPROVE PLN2003-00061, AS SHOWN ON EXHIBIT "A", BASED ON THE FINDINGS AND SUBJECT TO THE CONDITIONS ON EXHIBIT "B".

- Item 9. THIRD PRELIMINARY PLAN AMENDMENT FOR THE INDUSTRIAL REDEVELOPMENT PROJECT– Industrial Redevelopment Area – (PLN2003-00070)** – to consider a resolution to adopt the Third Preliminary Plan Amendment for the Fremont Industrial Redevelopment Project. The Third Preliminary Plan Amendment is only an initial non-binding step toward adoption of the Proposed Redevelopment Plan Amendment. This action is not subject to the California Environmental Quality Act. The Proposed Redevelopment Plan Amendment and its environmental review have been initiated and will be considered by the Planning Commission and City Council in the fall of 2003.

ADOPT RESOLUTION APPROVING THE THIRD PRELIMINARY PLAN AMENDMENT TO THE FREMONT INDUSTRIAL PROJECT AREA AND TRANSMIT PRELIMINARY PLAN AMENDMENT TO THE REDEVELOPMENT AGENCY.

The motion carried by the following vote:

AYES: 7 – Arneson, Cohen, Harrison, Manuel, Thomas, Weaver, Wieckowski

NOES: 0

ABSTAIN: 0

ABSENT: 0

PUBLIC COMMUNICATIONS

ORAL COMMUNICATIONS

Mark Robson, Santa Clara Development Company, spoke regarding the study session that preceded this meeting. Builders saw inclusionary zoning as an expense, and the logical response was to reduce the fee as much as possible. He suggested that the City should provide some kind of an incentive to encourage builders to build more than the minimum, i.e., more than one single-family home on a lot less than 4,000 square feet. If builders were allowed to build more market rate units, then more affordable units would be created.

Dennis Dubro, Congregations Organizing for Renewal (CORE), stated he represented 15 churches in southern Alameda County and the City. He stated that his organization would like to see the inclusionary zoning ordinance move forward. He asked for 20 percent affordable housing, rather than the recommended 15 percent.

Sean Heron, East Bay Housing Organizations, stated that his group was working in Alameda and Contra Costa Counties on affordable housing policy. He stated that there was concern about the "two tracks for development." One track was "for sale developments" and the other was "for rental developments." Moderate income residential need had been met in the City. He feared remaining land would be used for "for sale development" to moderate income buyers rather than using it for "for rental and affordable development." He suggested that land dedication or off-site partnerships could provide a portion of the cost of building rental/affordable homes.

Tom Perez, 14-year resident and a member of Affordable Housing Advocates, stated that the 15 percent inclusionary requirement was too low and he also suggested 20 percent. He asked that 10 percent be designated for very low income and 10 percent for low income for

all new development, regardless whether the development would be for rent or sale. He suggested a requirement be added to ensure that affordable units were built at, or about, the same time as the rest of the development. Affordable covenants should be not less than 55 years. Oversight and enforcement was important to ensure that the affordable units stayed available to the income population for which they were created. He also submitted his recommendations in writing.

PUBLIC HEARING ITEMS

- Item 10. BICYCLE AND PEDESTRIAN PLAN - City Wide - (PLN~~2002~~2003 -00027))** - to consider an Amendment to the Transportation Element of the General Plan to include the provisions of a new Bicycle and Pedestrian Plan. A Negative Declaration was prepared and circulated for this project. (Continued from September 26, 2002.)

MODIFICATION TO STAFF REPORT:

Recommended Action: Recommend the City Council to adopt a Negative Declaration, Bicycle and Pedestrian Plan, and General Plan text and map changes.

City Engineer Wilson stated that the creation of this plan would make the City eligible for receiving its share of Measure B funds by the County. This was not meant to be a comprehensive plan of all facilities and trails within the City, but was a starting point. Community meetings with the public would be held. The primary purpose for the Measure B funds was to finance projects that provided transportation alternatives for commuters, rather than for recreational uses. He introduced René Dalton, Associate Transportation Engineer who created the plan.

Chairperson Manuel opened the public hearing.

Michael Graff, one of the three members of the Bicycle Technical Advisory Committee (BTAC), stated that his committee had been working with Associate Transportation Engineer Dalton and thanked him for his good job on the plan. He suggested that wording about designating ordinary streets should be added to the General Plan modification, page 5.

Commissioner Cohen asked if anyone had looked at what the City of Palo Alto was doing.

Mr. Graff stated that this plan was a starter plan that could not be compared to any other city's comprehensive plan. However, he had looked at the plans of the City of Palo Alto and the City of Long Beach.

Commissioner Wieckowski asked why there were just three members in his committee. He suggested that others in the bicycling community could be added, perhaps, some of the speakers.

Associate Transportation Engineer Dalton stated that the committee was formed to help the City to apply for transportation development grants. The minimum membership was three. More could be added.

Brian Krause, member of the BTAC, stated that looking at the priorities biannually would help and the updates to the General Plan followed the spirit of what was intended.

Commissioner Cohen asked if he was a member of the Fremont Bicycle Club.

Mr. Krause stated that he knew many members of the club, which included Mr. Graff.

Paul Knight, 16-year resident, passed copies of his prepared statement and stated that the bicycle was his primary form of transportation. He stated that he had attended the BTAC meetings. He was pleased to see that on-street vehicle parking would be prohibited on various streets when agreed to by the adjacent property owners to make it safer for bicyclists. Safe bike lanes that crossed the City were essential for the safety and usefulness of bicyclists. He claimed that it was safer for a bicyclist to travel in the right hand traffic lane rather than in a bicycle lane that was next to parked vehicles, because someone opening the door of a parked vehicle could cause the bicyclist to be hit and injured or killed. He suggested that designated bike lines be considered that had no stop signs or were not next to parked cars. The plan needed to show "true, safe bike lanes," adjacent to parked vehicles and bike routes (which, in his opinion, had no apparent value).

Chairperson Manuel closed the public hearing.

Vice Chairperson Arneson asked if staff had seen the letter from Bonnie Davis that stated her specific concerns. Ms. Davis had suggested that a pedestrian be included as a member of the BTAC.

Associate Transportation Engineer Dalton stated that he had received her e-mail and had called her and left a message. He stated that pedestrian groups would be contacted to fill an upcoming vacancy on the BTAC.

Commissioner Thomas asked if the committee could be expanded and if a pedestrian member could be added.

Associate Transportation Engineer Dalton replied that the three members were the minimum and it could be expanded.

Chairperson Manuel agreed with Commissioner Thomas and stated that she walked a lot and it was important to obtain input from pedestrians as well as bicyclists. She suggested inviting Ms. Davis to become a member. She asked if the school district had been contacted for its input concerning safe pedestrian walkways for children to walk and bike to and from school, rather than being driven to school. She suggested that someone from the school district could be part of the committee. She believed that the various developments should be interconnected to allow people from one development to walk through another one, rather than using busy, main thoroughfares.

Associate Transportation Engineer Dalton replied that police department staff people currently met with school officials regarding children's walking/riding needs.

City Engineer Wilson stated that the School Safety Committee included school district representatives and police department staff. Parents who were dropping off their children created another unsafe environment for the children coming to and from school. It was a complex issue and, so far, no solutions had been created. The more recent public projects would provide for pedestrian needs. However, it was more difficult on private properties.

Commissioner Harrison recalled the introduction, last year, of an innovative, single user conveyance and asked how this plan would deal with it and other non-bicycle, non-pedestrian kinds of transit, such as skateboard, scooters, etc. He asked if the City was in line with other cities regarding making parking available for bikes. He asked how bike lanes could be best located, as mentioned by a previous speaker.

City Engineer Wilson stated that he was familiar with the conveyance that Commissioner Harrison was speaking of. It was not yet understood how to safely separate that type of vehicle from pedestrian traffic. In his opinion, it was not safe to mix that kind of device with pedestrians, as it traveled much faster than people walked. Currently, these vehicles and motorized scooters were required to use the bike lanes.

Associate Transportation Engineer Dalton stated that the City did not require bike parking in new developments. However, a credit was given if parking was created for bicycles. The Alameda County Bicycle Plan was used as a guideline for bicycle parking.

City Engineer Wilson offered to research what other cities currently provided compared to the City of Fremont.

Associate Transportation Engineer Dalton stated that staff and the BTAC had been discussing the issue of where to locate safe bike lanes and how to protect bicyclists from being injured from vehicle doors being opened as they pedaled by. Currently, City policy was to adhere to CalTrans guidelines, which permitted bike lanes adjacent to on-street parking with a minimum width of bike lane/parking space of 12 feet.

Vice Chairperson Arneson asked if the Hetch Hetchy easement had been considered for biking and walking.

City Engineer Wilson stated that the Hetch Hetchy easement had not been identified, but if it made sense as a commute route, it certainly would be included.

Commissioner Wieckowski asked if creating bike medians that would separate the vehicles from the bicycles and pedestrians had been considered, similar to what was done in Europe. He believed that education concerning the safe use of bicycles and bike routes could address many safety concerns. He mentioned a new policy in the City of Santa Cruz where E-bike riders were allowed to travel either on streets or sidewalks, and an education program was under way to familiarize people who were sharing the streets and sidewalks with E-bikes. This program has had many opponents, but it seemed to be working. He believed this information should be available to the various commissions in the City. He agreed with considering the use of the Hetch Hetchy easement, along with Union Sanitary District, Alameda Flood Control District, Alameda Water District and other regional agencies that had property in the City that could be included. He was not certain that a distinction should be made between routes used by recreational bicycle users and routes used by commuters. He would like the BTAC to revisit the 1975 plan that originally included 200 route miles and not limit the new plan to the current General Plan. He did not understand why so many children were driven to school, nowadays. He suggested that the congestion caused by so many vehicles driving to and from schools, along with increasing child obesity and a variety of other problems, could be addressed in the plan. He asked that discussion be included in the next report concerning how to access the funds available through the Transportation Equity Act T21 and Alternative Fundings AB1475.

City Engineer Wilson was familiar with the European method of bike/vehicle separation. It would be problematic with existing City streets, but could be considered when planning new projects. Pedestrians and bicyclists should not be mixed together. He expressed concern about "unusual" transitions from safe bike paths to City streets that could create more risks for bicyclists.

Commissioner Cohen agreed with Commissioner Wieckowski's remarks. He believed this was the opportunity to break the City's philosophical resistance to bicycles as part of a way of life and a way of transportation. He was seriously considering voting against the plan, as presented, because he did not feel this plan had taken advantage of the present opportunity to do that. He noted that the City of Palo Alto received a national award for reducing traffic by

ten percent, because of their bicycle plan. He believed that the City should require bicycle parking for all commercial developments, and showers and lockers should also be required to encourage people to bicycle to work. He wondered why Route 84 could not become a bicycle path/park that crossed the City. This plan did not go far enough and was not good enough.

Vice Chairperson Arneson asked what the effect would be on the plan if it were continued to allow time for the suggestions made by the Commissioners to be added. Would the City lose any of the Measure B money?

Planning Manager Marks stated that this General Plan Amendment would not be brought before the City Council before December, if it were continued by the Planning Commission.

City Engineer Wilson stated that Measure B funds would not be received until there was an actual plan. A continuance would provide scheduling difficulty. The Central Park crossing could use these funds, which was one of the first projects for next year's CIP. He agreed that the Hetch Hetchy easement could be used as a commuter route and for recreation. City resources were not available, at this time, to put together a comprehensive plan similar to the plan by the City of Palo Alto and it would be a significant amount of time before it could be brought back to the Commission.

Commissioner Wieckowski asked if the plan were approved, when would it come back to the Commission with more details.

City Engineer Wilson stated that it would come back to the Commission as part of the CIP as the projects were defined and moved forward. He asked that the Commission approve the plan with the understanding that its suggestions would be added and the plan would be taken through the process again.

Commissioner Harrison suggested adding to the approval that the Commission understood that this plan was a starting point and staff was encouraged to include some of the ambitious goals set forth by the Commission members in the next draft. That the Commission encouraged the number of the BTAC members to be increased to include pedestrian advocates should also be added.

Commissioner Cohen suggested the following language: Staff was "required" rather than "encouraged" to consider this a first step toward a comprehensive plan which would be similar to a city such as the City of Palo Alto. He wanted to be sure that this plan was not providing "lip service" to alternative commuting needs.

City Engineer Wilson stated that the City of Palo Alto took one to three years to develop their comprehensive plan and the City did not have the financial resources to do the same at this time.

Commissioner Harrison asked if the Measure B funds would not be available for one to three years.

City Engineer Wilson stated that if this plan was approved, the City would start receiving the funds and would move onto the next step, which would be to develop a comprehensive plan.

Commissioner Wieckowski stated that he would like to see the discussion of the opportunities to integrate with some of the Alameda Bicycle Plan and the National Trails Plan in the next revision of the plan.

IT WAS MOVED (HARRISON/WEAVER) AND CARRIED BY THE FOLLOWING VOTE (7-0-0-0) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

RECOMMEND THE CITY COUNCIL FIND THE INITIAL STUDY HAS EVALUATED THE POTENTIAL FOR THIS PROJECT TO CAUSE AN ADVERSE EFFECT—EITHER INDIVIDUALLY OR CUMULATIVELY—ON WILDLIFE RESOURCES. THERE IS NO EVIDENCE THE PROPOSED PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES;

AND

RECOMMEND THE CITY COUNCIL ADOPT A DRAFT NEGATIVE DECLARATION (PLN2003-00027) WITH ACCOMPANYING CERTIFICATE OF FEE EXEMPTION AND FIND IT REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

AND

RECOMMEND THE CITY COUNCIL ADOPT THE BICYCLE AND PEDESTRIAN PLAN AND GENERAL PLAN TEXT AND MAP CHANGES IN CONFORMANCE WITH EXHIBITS “A” AND EXHIBIT “B” (GENERAL PLAN AMENDMENT EXHIBIT);

AND

RECOMMEND ADOPTION OF BICYCLE AND PEDESTRIAN PLAN.

The motion carried by the following vote:

AYES: 7 – Arneson, Cohen, Harrison, Manuel, Thomas, Weaver, Wieckowski

NOES: 0

ABSTAIN: 0

ABSENT: 0

- Item 7. WONG DWELLING – 36232 Pecan Court – (PLN2002-00232)** – to consider a Zoning Administrator referral of a Zoning Administrator Permit to allow the use of an additional detached single-family dwelling on property located in the Niles Planning Area. This project is categorically exempt from CEQA under Section 15303 as it relates to the construction or conversion of structures for up to three single-family residences.

Bill Lane, architect, stated that this property was purchased by the applicant as income property ten years ago and he, subsequently, rented the house and apartment. In September, 2001, the applicant was served with code violations that were not disclosed to him at the time he purchased the property. He was offered three options, two of which required that the owner live on the property. He chose the first option (a dwelling group), which entailed purchasing a small strip of land from his neighbor to meet the minimum lot size requirement. New landscaping, brick pillars and wrought iron gates would be added. The current secondary dwelling unit was difficult to see from the street, as would be the new proposed unit. Opposition from the neighbors included:

- **Character of the neighborhood would be changed.**
 - Two properties had been rentals and the use of this property would not change. Consequently, the character of the neighborhood would not change.
- **Parking problems would be increased.**
 - Four covered and five open onsite-parking spaces would be provided, which was more than required. No occupants of the dwelling units would need to park on the street.
- **Traffic would be increased.**
 - One additional single-family residence would not create a traffic problem.
- **A precedent would be set.**
 - There were no other parcels in Pecan Court or in the Hacienda Gardens tract large enough to allow for a dwelling group, consequently, no precedent would be set.

Chairperson Manuel opened the public hearing.

John Zlatnik, Pecan Court resident, stated that any change in the Hacienda Gardens community was usually the refurbishment of the single-family homes. He was opposed to the changes, because he believed the project would set a precedent for everywhere in the City. The project would introduce a two-story building that would diminish the privacy of the surrounding homes. He believed the tenants of the two units would chose to park in the street or in the driveway in front of the gates rather than parking inside. The applicant had no stake in this part of the community as he did not live there and was only "interested in maximizing his profits." A smaller, new home would be more acceptable, rather than the 2,000 square foot, two-story home planned as a secondary unit on this property.

Chairperson Manuel asked what the speaker's lot size was. She asked if the applicant's lot was one of the largest lots in Hacienda Gardens and if any other lot subdivisions had occurred in the area.

Mr. Zlatnik stated that he did not know the square footage of his lot. He replied that most lots at the end of cul-de-sacs were approximately that size. He did not know of any subdivisions in his area.

Commissioner Cohen asked if there were any two-story homes on the cul-de-sac. He asked what his square footage was and the size of the proposed secondary home. Did he believe that the size of the secondary unit would affect the character of the neighborhood?

Mr. Zlatnik stated that no two-story homes were on his cul-de-sac, but there was one on a corner elsewhere in the area. His home was approximately 1700 square feet and the proposed new unit was to be 2000 square feet, which was larger than the existing primary home. Yes, the secondary unit would affect the character of the neighborhood and allow the tenants to look into the neighbors' yards.

Kim Lerch, Pecan Court resident almost across the street from the applicant's property, stated that she had lived there since 1989. The neighborhood did not need another 2000 square foot home. Someone who lived in the primary dwelling and used the secondary unit for guests, or relatives who needed help from nearby family, would be best for the neighborhood. She presented a petition that had been circulated around the neighborhood and was signed by 19 out of 23 lots that would be affected by this project. Two of the lots belonged to the applicant and his next-door neighbor from whom he bought the sliver of property. She had heard negative comments about people who owned illegal units and were being encouraged to bring them to the City where staff would help them to do what was being attempted by this applicant.

Commissioner Weaver asked if she would support a "granny unit."

Ms. Lerch stated that she would support a granny unit. The City needed them.

Commissioner Harrison asked if her opinion would change if one of the units was owned and occupied by a family.

Ms. Lerch stated that the reason the lot had not been subdivided was because there was not enough street access. She understood that this house or the original house would always be a rental.

Greg Anderson, Carnation Way resident, stated that he had lived in his 1800 square foot home for six years. The parking was difficult, due to the vehicles owned by members of the swim club next door. He agreed that the neighborhood was in transition. However, it was the older, original owners who were selling their homes to younger families who were then

rehabilitating them and turning them into “beautiful replicas of what they were when they were built.” He took offense at the notion that the neighborhood was transitioning negatively. The transition was very positive. The maturity of the vegetation with the relatively large lots were part of the character of the neighborhood. There were other options available to the applicant, one of which was selling at a handsome profit.

Mr. Lane stated that the square footage mentioned by the previous speakers included the garage, which was 440 square feet. The current two bedroom, two-bath apartment was 1207 square feet, excluding the garage, and had been there for well over ten years. It was two stories and could not be seen from any of the other homes, except by the adjacent home at the side, because the lot was so heavily wooded. The proposed improvement would be 1584 square feet, exclusive of the garage. The primary home was 1388 square feet. Dwelling groups had been allowed by the City for many years, particularly when the frontage was not adequate to subdivide the property. Due to the mature trees, no one could see into adjacent properties and neither could anyone see into the applicant's property.

Commissioner Wieckowski recalled previous projects where the applicants made it a point to communicate with the surrounding neighbors so that the neighbors understood what was being planned. He wondered why so many neighbors were against the project and asked if the applicant had made an attempt to alleviate the neighbors' concerns.

Mr. Lane stated that, in the past, there had been a difficult situation with the tenant of the principal dwelling who had operated an illegal auto repair facility and it had caused ill will within the neighborhood. He stated that the applicant was a City resident and owned other property in the City. He was not an absentee landlord with no concern for the community.

Commissioner Wieckowski stated that his impression was that the applicant was indifferent to the concerns of the surrounding neighborhood. He suggested that the Commission continue this item to allow the applicant to have “a little pow wow” with the neighbors to give them a chance to understand the project. He was not persuaded that “evil of renters” were just that. He would make his decision after hearing from his fellow Commissioners.

Mr. Lane stated that most neighborhoods were reluctant to accept change. He believed that change, even positive change for this property, was not wanted. The current two-story building had been there for many years and this project would take down most of the building and reconstruct it to provide a positive change for the neighborhood.

Commissioner Thomas confirmed the square footage of the current home, the proposed home and the primary home.

Commissioner Weaver understood why a granny unit was not appropriate for the applicant. However, he could always sell it to someone else. He did not have to keep this property. She asked why an illegal structure should be grandfathered in, thus, rewarding the applicant.

Mr. Lane stated that when the legal second story was added to the illegal structure, it became legal. However, he agreed that portions of the building were illegal. The illegal living room addition would be torn down and the shop (that was now being used as a bedroom) would be drastically modified. The building was being rebuilt.

Commissioner Weaver asked why the new building could not be a single-story building. She understood that the gist of the neighbors' complaints was the size of the second home, along with the proposed two stories. The neighbors would be satisfied if the home was just a single story.

Mr. Lane stated that the entire building would have to be torn down and that was not being considered. Only the illegal parts of it would be removed. He believed that the neighbors were opposed to having two rental units on the property. They did not want renters in the neighborhood. He believed that more people who wanted to downsize would rent, rather than sell, their homes and it would continue to happen in the City.

Commissioner Weaver disagreed that the neighbors saw the renters as a problem.

Commissioner Cohen asked if the other homes on the court had usable garages.

Mr. Lane stated that most of the garages were attached and he assumed they were being used as garages, per se.

Commissioner Thomas noticed that a car was in the driveway of the applicant's property when she visited it. She asked if the garage was actually used as a garage and had room for two vehicles. She wondered why someone parked in the driveway if the garage was available.

Mr. Lane replied that the garage was being used as a garage and there was room for two vehicles. He stated that he frequently parked his auto in the driveway in front of his garage.

Commissioner Harrison asked what would happen to the building if the Commission denied the project.

Planning Manager Marks stated that the applicant knew the options. The building could be used as a guesthouse with the primary home and the owner was not required to occupy it.

Commissioner Wieckowski followed up by noting that nothing would change for the neighbors. The two-story structure would remain.

Planning Manager Marks stated that portions of the structure would have to be removed in order for it to be deemed legal. The kitchen would have to be removed if the building was to become a guesthouse. The structure could stay. The second story was permitted, so the structure could remain as a permitted structure.

Commissioner Wieckowski expressed confusion over the neighborhood's issue with the property. Were the neighbors unhappy with the current two-story structure, the proposed two-story structure or was it the idea of having two renters on the property? It seemed that either way, from a physical perspective, the character of the neighborhood would stay identical.

Planning Manager Marks noted that the proposed structure would be approximately 300 feet larger. The current structure could be used as an extension of the existing home, such as using it as a rumpus room. However, it could not be rented out as a second unit.

Commissioner Thomas asked if a garage would have to be built for the primary unit, if it were approved.

Mr. Lane stated that she was correct.

Planning Manager Marks stated that the primary unit had its garage for parking. A garage would have to be built for the secondary unit. There was no parking requirement for a guesthouse or for expanded space for the primary unit.

Commissioner Thomas asked that if the second unit was approved, a carport would have to be built.

Planner Nguyen stated that a granny/in-law unit required one uncovered space. For an additional single-family dwelling and the primary dwelling, four covered parking spaces would be required.

Planning Manager Marks stated that portions of the structure were permitted and there was no basis to recommend that it be removed. It was the use that was before the Commission.

Commissioner Thomas asked if the Commission could approve the use and also require removal of the illegal portions of the secondary unit.

Planning Manager Marks stated that they would have to be legalized in some fashion. There were conditions that required that the illegal wings be removed.

Chairperson Manuel closed the public hearing.

Vice Chairperson Arneson stated that she would not support the proposal. The second dwelling obviously was originally a garage with a two-story rectangular box attached behind it. It was visible from the street when she visited the site. It was not a complement to the neighborhood and adding a new carport, plus the additional required parking, would eliminate most of the front landscaping. Significant additional paving would have to be added to the middle of the yard and it would be visible from the street. In her opinion, this was a substandard design with a substandard site plan, which did not conform to the General Plan goals and policies. She read the portions of the General Plan that substantiated her findings. The existing neighborhoods needed to be protected from degradation, which was one of the General Plan goals. If the second story could legally stay, then it should be visually enhanced and all of the other illegal portions of the building should be removed.

Commissioner Thomas agreed with Vice Chairperson Arneson. She would not approve the project as presented. She suggested that the two illegal single-story wings be removed, which would allow room for the carport and eliminate the need for so much concrete. If the building were "spiffed up," it would be adequate. Small homes, like this one, were needed in the City for small families.

Commissioner Wieckowski stated that the applicant could design the building so that it would meet Housing Goal No. 2, so that it was of high quality and the sense of Hacienda Gardens could be met. He suggested that the applicant meet with the neighbors and communicate his plans to them. In his opinion, any lot anywhere in the City that was 16,000 square feet could support two modest dwellings.

Commissioner Thomas stated that she would not approve a second home of the size presented to the Commission.

Vice Chairperson Arneson stated that she would not support the motion because it was not consistent with the General Plan.

Commissioner Cohen agreed with Vice Chairperson Arneson. He would not support it.

Chairperson Manuel also would not support the motion, because she agreed with Vice Chairperson Arneson.

IT WAS MOVED (HARRISON/THOMAS) AND FAILED BY THE FOLLOWING VOTE (2-0-0-5) THAT THE PLANNING COMMISSION CONTINUE THIS ITEM.

THE MOTION FAILED BY THE FOLLOWING VOTE:

AYES: 2 – Harrison, Thomas
NOES: 1 – Arneson, Cohen, Manuel, Weaver, Wieckowski
ABSTAIN: 0
ABSENT: 0

Commissioner Harrison did not disagree with someone making a profit or providing much needed rental property to the community. However, he was not comfortable with creating a second unit at this location. He would vote to deny staff's recommendation.

Commissioner Cohen stated that his reasons for voting to deny the application were that the garages would be different from the other homes in the neighborhood, as their garages were attached. The design was not in character with the area, either. He agreed that the current structure was a garage with a house attached to it, unlike the other homes in the area. Therefore, it was not consistent with the General Plan.

Senior Deputy City Attorney Daniel asked if the maker of the motion and the second were relying on the findings previously stated by Vice Chairperson Arneson and the factual statements made by Commissioner Cohen.

Commissioner Weaver stated that she was.

Commissioner Thomas stated that she would also support the denial.

IT WAS MOVED (WEAVER/COHEN) AND CARRIED BY THE FOLLOWING VOTE (7-0-0-0) THAT THE PLANNING COMMISSION DENY THE APPLICATION.

THE MOTION CARRIED BY THE FOLLOWING VOTE:

AYES: 7 – Arneson, Cohen, Harrison, Manuel, Thomas, Weaver, Wieckowski
NOES: 0
ABSTAIN: 0
ABSENT: 0

Chairperson Manuel stated that this decision could be appealed within ten days to the City Council and a fee would be charged.

MISCELLANEOUS

- Item 10. TARGET ARTWORK PROPOSAL - 39301 Fremont Boulevard - (PLN2002-00249)** - to consider a request by Target to discuss the incorporation of a bronze sculpture at the corner of Fremont Boulevard and Walnut Avenue in fulfillment of a condition of approval requiring public art. This project is categorically exempt from CEQA review Section 15311, Accessory Structures.

Chris Coonan, Target Corporation, presented photos of the two sculpture proposals for the Commissions' consideration. He thanked the staff and the Commissioners who traveled to the art gallery to view the sculptures.

Chairperson Manuel opened the public hearing.

Mr. Coonan closed by stating that Target would be happy with either proposal. Further details would be provided after the sculpture was chosen.

Vice Chairperson Arneson asked if Target would object to adding benches on the parking lot side where people could sit and observe the sculpture and sketch it and the hills.

Mr. Coonan stated that he would have no objection.

Commissioner Weaver liked the fountain element with the "Fire Boys Team Fountain" sculpture. She asked if it would be possible to incorporate a fountain element into the "Children Climbing a Tree Trunk" sculpture. She asked if the pergola could still be constructed in conjunction with the sculpture.

Mr. Coonan asked if she preferred the tree sculpture. He stated that he liked it best, also. He stated that Target would prefer to not have a water element, due to the liability factor. He had not considered retaining the pergola, but promised to consider it.

Chairperson Manuel closed the public hearing.

Commissioner Wieckowski stated that he saw the "Fire Boys Team Fountain" and "enjoyed" it.

Commissioner Weaver liked the children and the tree and would like to see the pergola added, which would pick up the wood element from the building.

Commissioner Thomas was at first disappointed that the choices were not very different from each other. She did not travel to see either of the sculptures at the art studio. However, she liked the children climbing in the tree. It was playful and appropriate for the location, although she expressed concern about graffiti and vandalization.

Vice Chairperson Arneson stated that when she had visited the studio to view the sculptures, the "Fire Boys" was the only sculpture available, as the other one was being exhibited off site. She loved the creativity and cleverness. She was told that the facial features of the boys on the tree were more detailed. She would be happy with either one. If staff felt that the pergola would work, it could add interest. The benches certainly would be a nice addition. The children in bronze would fit well with the style and color of the shopping center.

Commissioner Harrison stated that he would support either of the statues and liked the idea of the benches. He wondered if a trellis would hinder further development at the corner. He stated that a wonderful sight on Tuesday evening was seeing shoppers pushing full shopping carts at Target. He thanked Mr. Coonan for bringing Target to the City of Fremont.

Commissioner Cohen stated that he did not like either of the sculptures. His not liking them was less of an issue than the fact that art would actually be displayed at that corner. He hoped that it would generate some comments and perhaps some controversy among the City residents.

Chairperson Manuel stated that the sculptures would be more appropriate in a park; she did not see them at the "gateway to our commerce." She had hoped for something less juvenile, more sophisticated and diverse. Target's brand identity certainly was not supported by either of these sculptures, considering its affiliation with Michael Graves, Phillippe Stark and Todd Olden. She found the Fire Boys sculpture offensive, as she had many women friends in fire departments in different cities and who worked very hard. She did not believe this sculpture would provoke discussion and found it very juvenile for the corner of Fremont Boulevard and Walnut Avenue.

Commissioner Thomas recalled small sculptures of children on commercial property on Alvarado-Niles Boulevard, which made her smile and as she drove by. She hoped that this sculpture would do the same for people passing the Fremont Boulevard/Walnut Avenue corner.

Chairperson Manuel hoped that at some time in the future, some kind of an art “body,” such as the Art Commission, would first consider proposed art work for projects within the city, which would help the Commission to make a decision.

Commissioner Cohen agreed with Chairperson Manuel and stated that he would liked to have seen “something better.”

After some discussion, it was decided that staff could make the decision about including the pergola/trellis.

Commissioner Wieckowski stated that he was ashamed that he found the Fire Boys cute and that he had not thought of the women firefighters who might be insulted by the stature. He thanked Chairperson Manuel for educating him. He supported her wish for more meaningful public art.

IT WAS MOVED (HARRISON/WEAVER) AND CARRIED BY THE FOLLOWING VOTE (5-0-0-2) THAT THE PLANNING COMMISSION APPROVE THE PUBLIC ART PROPOSAL AND ADD BENCHES AND ALLOW STAFF TO DECIDE ABOUT THE PERGOLA AND WHERE IT SHOULD BE LOCATED.

The motion carried by the following vote:

AYES: 5 – Arneson, Harrison, Thomas, Weaver, Wieckowski
NOES: 2 – Cohen, Manuel
ABSTAIN: 0
ABSENT: 0

Information from Commission and Staff:

- Planning Manager Marks reminded the Commission that it had received copies of a new law that stated when one recused him/herself, the reason must be stated and the recused person must exit the chamber.

Senior Deputy City Attorney Daniel stated that although the Commissioners generally stated the basis for the conflict of interest, it was now in the statute very clearly. It did not take away the right of the recused person to come back and speak to the Commission as a member of the public.

Commissioner Wieckowski asked if one had to exit to comply with the law, then was one allowed to reenter as a public speaker.

Senior Deputy City Attorney Daniel stated that if one wished to speak regarding one’s own property interest. However, there was some controversy whether one would have to leave after speaking. At this point, staying out of the chamber for the remainder of the discussion was the better practice. She noted that one could still see and hear the discussion by the rest of the Commission because of the television monitors in the lobby.

Commissioner Thomas noted that a recused Commissioner should remove one’s nametag before speaking before the Commission.

Senior Deputy City Attorney Daniel agreed.

- Planning Manager Marks stated that a study session was planned for November 21st at 6:00 p.m., before the regular meeting, to discuss the Union Pacific property master plan.

Commissioner Weaver stated that she would probably be on vacation at that time.

Chairperson Manuel asked if a community meeting on Wednesday, October 16th was to take place.

- Planning Manager Marks reminded the Commission that it would meet November 7th and the 21st, the first and third Thursdays of the month.

Commissioner Wieckowski stated that he would not be available on November 7th.

- Vice Chairperson Arneson noted that the Target windows were up, but there was nothing in them. She asked if someone needed to contact Ohlone College to encourage participation in the art displays, as agreed with Target.

Meeting adjourned at 10:15 p.m.

SUBMITTED BY:

Alice Malotte
Recording Clerk

APPROVED BY:

Dan Marks, Secretary
Planning Commission